

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

RECEIVED

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHARMACIA CORPORATION
(f/k/a Monsanto Company) *et al.*,

Defendants.

PHARMACIA CORPORATION
(f/k/a Monsanto Company) and SOLUTIA INC.

Counterclaim Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*

Counterclaim Defendants.

NOV 12 2003

CHAMBERS, G. PATRICK MURPHY
U. S. DISTRICT JUDGE
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

CIVIL NO. 99-63-GPM

CJRA Track "C"

FILED

APR 19 2004

G. PATRICK MURPHY
DISTRICT JUDGE
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS, ILLINOIS

CONSENT DECREE

I. BACKGROUND

A. On January 30, 1999, the United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607, against, *inter alia*, Paul Sauget, Monsanto Company, Solutia Inc., Cerro, ExxonMobil, and Harold W. Wiese. The Complaint seeks recovery of over \$2 million in Past Response Costs, additional litigation expense, and a declaration of liability for Future Response Costs incurred and to be incurred in connection with releases or threatened releases of hazardous substances at the Sauget Area 1 Site ("Site") under Section 107 of CERCLA, 42 U.S.C. § 9607.

B. The Site consists of three closed landfills (Sites G, H, and I); two former surface impoundments (Site L); one flooded borrow pit (Site M); one filled borrow pit (Site N); and an intermittent stream known as Dead Creek.

C. U.S. EPA and the State of Illinois, through the IEPA, have been investigating the Sauget Area 1 Site since the mid-1980s.

D. As of April 30, 2003, U.S. EPA has incurred Response Costs of at least \$1,714,000 in connection with the Sauget Area 1 Site, including approximately \$900,000 for costs associated with implementation of the Removal Action at Site G, and \$814,000 in other Response Costs.

E. As of December 31, 2002, the Department of Justice has incurred approximately \$2,000,000 in Response Costs relating to the Sauget Area 1 Site.

F. The United States asserts that Response Costs incurred and to be incurred by the United States at the Sauget Area 1 Site, are caused, *inter alia*, by the release or threatened release of hazardous substances at and from portions of the Site formerly operated by Defendant Paul Sauget.

G. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and implementation of this Consent Decree will expedite the cleanup of the Site and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

II. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b). This Court also has personal jurisdiction over the Settling Defendant.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and Sections 107 and 113(b) of CERCLA, 42 U.S.C. §§ 9607 and 9613(b), because the releases or threatened releases of hazardous substances that gave rise to this claim occurred in this district and because the Site is located in this district.

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al., Civ. No. 99-63-GPM

3. Solely for the purposes of this Consent Decree and the underlying complaints, Settling Defendant waives all objections and defenses that it may have to the jurisdiction of this Court or to venue in this District. Settling Defendant shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

4. This Consent Decree applies to and is binding upon the United States on behalf of EPA and upon Settling Defendant.

IV. DEFINITIONS

5. All terms used in this Consent Decree that are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, shall have the meaning provided therein.

"Consent Decree" or "Decree" shall mean this Consent Decree and all appendices attached hereto.

"Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

"Dead Creek" shall mean the creek and associated wetlands stretching from the Alton & Southern Railroad at its northern end, flowing south through the Villages of Sauget and Cahokia for approximately 3.5 miles, and emptying into the Old Prairie du Pont Creek, which then flows approximately 2,000 feet west into a branch of the Mississippi River known as the Cahokia Chute and all the areal extent of contamination in soils, sediments, surface water and groundwater released from Dead Creek. Dead Creek has been divided into various segments by U.S. EPA for the purpose of investigation and response action.

"Effective Date" shall mean the date of entry of this Decree by the District Court of the Southern District of Illinois after satisfaction of the public notice and comment procedures of 28 C.F.R. § 50.7.

"EPA" shall mean the United States Environmental Protection Agency and any

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al., Civ. No. 99-63-GPM

successor departments, agencies or instrumentalities of the United States.

"Insurance Claims" shall mean those causes of action asserted, or which may be asserted, by the Settling Defendant against any insurance carrier for indemnification pursuant to the terms of any insurance policy or related agreement between the Settling Defendant and any insurance carrier, including, but not limited to, indemnification for liability for Settling Defendant's litigation expenses and liability to Plaintiff for relief in this matter.

"Insurance Proceeds" shall mean the gross proceeds recovered, if any, by or on behalf of the Settling Defendant pursuant to (i) any settlement of the Insurance Claims; or (ii) any judgment with respect to the Insurance Claims.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

"Paragraph" shall mean a portion of this Consent Decree identified by an arabic numeral or an upper case letter.

"Parties" are the Plaintiff, the United States of America, and Defendant Paul Sauget.

"Response Costs" shall mean the direct and indirect costs, and all other costs of response actions as defined in Sections 101(25) and 107 of CERCLA, 42 U.S.C. §§ 9601(25) and 9607, incurred and to be incurred by the United States, including U.S. EPA, its contractors and other authorized representatives, and the Department of Justice, in connection with the Sauget Area 1 Site.

"Sauget Area 1 Site" or "Site" means the geographic area identified by the United States Environmental Protection Agency ("U.S. EPA"), and depicted generally on the map attached hereto as Appendix 1, consisting of three closed landfills (Sites G, H, and I); two former surface impoundments (Site L); one flooded borrow pit (Site M); one filled borrow pit (Site N), and Dead Creek located in the Villages of Sauget and Cahokia, as well as all the areal extent of

contamination in soils, sediment, surface water and groundwater released therefrom. The Sauget Area 1 Site is located within the corporate limits of the Village of Sauget, Illinois and extends into the adjoining Village of Cahokia, Illinois. Sauget Area 1 does not include Sauget Area 2, and to the extent that the areal extent of contamination from Sauget Area 1 has spread to Sauget Area 2, it is not included in the definition of Sauget Site 1.

"Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

"Settling Defendant" means Paul Sauget.

"United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

"Site G" shall mean several different parcels of land encompassing approximately 5 acres of land, located south of Queeny Avenue, east of (and possibly under) Wiese Planning & Engineering, and north of a cultivated field in the Village of Sauget, and west of Dead Creek CS-B and all the areal extent of contamination in soils, sediments, surface water and groundwater released from Site G.

"Site H," formerly known as part of "the Sauget-Monsanto landfill," shall mean the approximately 5 to 7 acres of land located south of Queeny Avenue, west of Falling Springs Road, and north and east of Site L in the Village of Sauget, Illinois, and all the areal extent of contamination in soils, sediments, surface water and groundwater released from Site H.

"Site I," formerly known as part of "the Sauget-Monsanto landfill," shall mean the approximately 19 acres of land located north of Queeny Avenue, west of Falling Springs Road and south of the Alton & Southern Railroad in the Village of Sauget, Illinois, and includes all the areal extent of contamination in soils, sediments, surface water and groundwater released from Site I.

"Site L" shall mean the approximately 4 acres of land located immediately east of Dead Creek CS-B and south of the Queeny Avenue property in the Village of Cahokia and includes all the areal extent of contamination in soils, sediments,

surface water and groundwater released from Site L.

"Site M" shall mean the former sand mining pit located along the eastern side of Dead Creek CS-B south of Site L at the western end of Walnut Street in the Village of Cahokia, Illinois and includes all the areal extent of contamination in soils, sediments, surface water and groundwater released from Site M. At one time Site M was hydraulically connected to Dead Creek through an eight-foot opening at the southwest portion of the pit.

"Site N" shall mean the approximately 4 to 5 acres of land located along the eastern side of Dead Creek CS-C, south of Judith Lane and north of Cahokia Street in the Village of Cahokia, Illinois, and all the areal extent of contamination in soils, sediments, surface water and groundwater released from Site N.

V. STIPULATED JUDGMENT

6. Settling Defendant hereby stipulates that judgment shall hereby be entered against it in the amount of \$9,200,000 on the United States' claims, as set forth in the Complaint, for recovery of Response Costs incurred and to be incurred in connection with releases or threatened releases of hazardous substances at the Sauget Area 1 Site ("Site") under Section 107 of CERCLA, 42 U.S.C. § 9607.

VI. PAYMENT OF RESPONSE COSTS

7. In satisfaction of the judgment hereby entered against Settling Defendant, Settling Defendant shall pay sixty thousand dollars (\$60,000), plus Interest, as set forth below, plus 95% of any insurance recoveries, as further set forth below. Settling Defendant shall make payment to the United States of the initial \$60,000 amount in accordance with the schedule set forth below:

- a. Within thirty (30) days of the effective date of this Consent Decree, Settling Defendant shall pay the United States ten thousand dollars (\$10,000);
- b. Exactly one year after the date of the initial payment, Settling Defendant shall pay an additional thirty thousand dollars (\$30,000) to the United States, plus Interest on all remaining principal of the original sixty thousand dollars (\$60,000) owed to the United States. "Interest" shall mean interest at the rate specified for investments of the United

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al, Civ. No. 99-63-GPM

States, compounded on October 1 of each year. See 31 U.S.C. § 3717. Currently, the Interest rate is 2.00%.

c. Within one year of the payment required by Paragraph 6(b), above, Settling Defendant shall pay the remaining twenty thousand dollars (\$20,000) to the United States, plus Interest on all remaining principal of the original sixty thousand dollars (\$60,000) owed to the United States.

8. Payments shall be paid by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with instructions to be provided to Defendant Paul Sauget by the Financial Litigation Unit of the U.S. Attorney's Office for the Southern District of Illinois, upon entry of the Consent Decree. Any EFTs received at the Department of Justice lockbox bank after 11:00 a.m. Eastern Time will be credited on the next business day. At the time of payment, Defendant Paul Sauget shall send written notice of the payment (referencing the Civil Action Number and DOJ Case Number 90-11-2-06089) to the United States and the U.S. Environmental Protection Agency, Region 5.

9. In the event that any payment required under Paragraph 7 is not made in a timely manner, Interest shall continue to accrue on the unpaid balance through the date of payment. In the event Settling Defendant fails to make payment under Paragraph 7 in a timely manner, Settling Defendant shall pay a stipulated penalty to the United States in accordance with Paragraph 14 of this Decree.

10. Settling Defendant shall, prior to the tolling of any applicable statute of limitation, pursue in good faith and to final judgment or settlement, any cause of action that has been asserted, or that may be asserted, by the Settling Defendant against any insurance carrier for indemnification of Settling Defendant's liability to the United States ("Insurance Claims"). Within three business days of the resolution of such Insurance Claims, or any part of such Claims, whether by judgment or settlement, Settling Defendant shall provide notice to the United States by overnight mail directed to the addresses specified in Section XIII (Notices) of this Decree, together with documentation regarding the amount of any monies to be paid by the insurance carrier as a result of the resolution of the Insurance Claims (the "Insurance Proceeds"), and any reasonable attorneys' fees or expenses incurred after the date that the Settling Defendant signs this Consent Decree in order to secure the Insurance Proceeds ("Expenses"). Expenses as defined in this Consent Decree do not include attorneys' fees or expenses incurred in connection with the Settling Defendant's defense or settlement of the claims brought in this action by the United States or by the Third Party Plaintiff. Within ten business days of receipt of such Insurance Proceeds, Settling Defendant shall remit ninety-five percent (95%) of the Insurance Proceeds, after

deduction of permissible Expenses, to the EPA Hazardous Substance Superfund in accordance with the instructions set forth in Paragraph 8 of this Consent Decree. If such Insurance Proceeds are received prior to the entry of this Consent Decree, then the share due to the United States after Expenses shall be paid to the United States within thirty days of the date of entry of the Consent Decree, in accordance with Paragraph 8, above. No payment under this Paragraph shall substitute for any of the payments due under Paragraph 7, above, which shall remain due and payable on the schedule established above, subject to the pre-payment provisions of Paragraph 11, below.

11. The 5% share of the Insurance Proceeds after Expenses retained by the Settling Defendant under Paragraph 10, above, if received by the Settling Defendant prior to payment of the entire \$60,000 plus Interest due to the United States under Paragraph 7, shall be applied by the Settling Defendant to prepay, in whole or in part, the payments due under Paragraph 7, above. Interest due on any such pre-payment shall be calculated from the date of entry of the Consent Decree to the date of pre-payment.

VII. FAILURE TO COMPLY WITH CONSENT DECREE

12. Interest on Late Payments. If Settling Defendant fails to make payment under Paragraph 7 by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

13. Stipulated Penalty

a. If any amount due under Paragraph 7 is not paid by the required date, Settling Defendant shall be in violation of this Consent Decree and shall pay, as a stipulated penalty, in addition to the Interest required by Paragraph 13, \$1,000.00 (one thousand dollars) per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by EPA.

c. Stipulated penalties shall be paid by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with instructions to be provided to Settling Defendant upon entry of the Consent Decree by the Financial Litigation Unit of the U.S. Attorney's Office for the Southern District of Illinois. Any EFTs received at the Department of Justice lockbox bank after 11:00 a.m. Eastern Time will be credited on the next business day. At the time of payment, Settling Defendant shall send written notice of the payment (referencing the Civil Action Number and

DOJ Case Number 90-11-2-06089) to the United States and the U.S. Environmental Protection Agency, Region 5.

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendant of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment

14. In addition to the Interest and Stipulated Penalty payments required under Section VII or any other remedies available to EPA for a violation of this Consent Decree, if Settling Defendant fails or refuses to comply with any term or condition of this Consent Decree, Settling Defendant shall be subject to enforcement action pursuant to Sections 9609(c) and 9622(l) of CERCLA and any other applicable authorities.

15. If the United States brings an action to enforce this Consent Decree, Settling Defendant shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

16. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Settling Defendant's failure to comply with the requirements of this Consent Decree.

17. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Paragraph 7 or from performance of any other requirements of this Consent Decree.

VIII. CERTIFICATIONS BY SETTLING DEFENDANT

18. In order to induce the Plaintiff to enter into this settlement, Settling Defendant by its signature hereto, affirms, to the best of its knowledge and belief, the following:

a. Settling Defendant has conducted a thorough, comprehensive, good faith search for, and has fully and accurately disclosed to EPA, all information currently in the possession, custody or control of it or its officers, directors, employees, contractors or agents, that relates in any way to the ownership, operation or control of the Site, or to the ownership, possession, generation,

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al, Civ. No. 99-63-GPM

treatment, transportation, storage or disposal of a hazardous substance, pollutant or contaminant at or in connection with the Site;

b. Settling Defendant has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to its potential liability regarding the Site, after notification of potential liability or the filing of a suit against the Settling Defendant regarding the Site;

c. Settling Defendant has fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e);

d. Settling Defendant has provided to EPA all material information of which it is aware relating to its finances, assets, insurance coverage, and all other matters related to the Settling Defendant's resources available to reimburse the Plaintiff's Response Costs at the Site ("Financial Information").

e. The information described in Subparagraphs a, c, and d above is true and accurate; and

f. Settling Defendant neither possesses or knows of any other documents or information that would suggest that it has in its possession, custody or control, other assets, income or any interests at all in property of any kind that could be used to reimburse the EPA Hazardous Substances Superfund for Response Costs incurred or to be incurred at the Site.

IX. COVENANT NOT TO SUE BY PLAINTIFF

19. Except as specifically provided in Section X (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendant pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), with regard to Response Costs at the Site. This covenant not to sue extends only to Settling Defendant and does not extend to any other person. This covenant shall take effect upon receipt by EPA of all amounts required by Section V (Payment of Response Costs) and any amount due under Section VII (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendant of his obligations under this Consent Decree. This covenant not to sue is contingent upon the veracity of the certifications made by the Settling Defendants in Section VIII (Certifications by Settling Defendants), the completeness of the Financial Information provided to the United States by

the Settling Defendant, and the reservation of right with respect to these certifications set forth in Section X, below.

X. RESERVATION OF RIGHTS BY UNITED STATES

20. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendant with respect to all matters not expressly included within the Covenant Not to Sue by Plaintiff in Paragraph 19. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendant with respect to:

- a. liability for failure of Settling Defendant to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. claims relating to the Site that arise after the date of lodging of this Consent Decree; and
- e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

21. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Consent Decree, if, within 10 years of the entry of this Consent Decree, the United States determines that the Financial Information provided by Settling Defendant, or the financial certification made by Settling Defendant in Paragraph 18, is false or, in a material respect, inaccurate as of the date of entry of this Consent Decree. Any misrepresentation, misstatement or material omission by the Settling Defendant in the certifications made in Section VII (Certifications by Settling Defendants), upon written notice by the United States to the Settling Defendants, renders the covenant not to sue and the contribution protection provided by this Consent Decree null and void, and Settling Defendant shall forfeit all payments made pursuant to this Consent Decree. Such forfeiture shall not constitute liquidated damages and shall not in any way foreclose the United States' right to pursue any other causes of action arising from Settling Defendant's false or materially inaccurate information. Following the voiding of any covenant not to sue pursuant to

this Paragraph, in any action brought by the United States against the Settling Defendants, Settling Defendants shall not raise any defenses based in whole or in part on the time elapsed between the entry of this Consent Decree and the commencement of such action by the United States, including but not limited to defenses based upon any statute of limitations, laches, waiver, estoppel, or lack of jurisdiction.

XI. COVENANT NOT TO SUE BY SETTLING DEFENDANT

22. Settling Defendant covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Site or this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

23. In the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Section IX, Settling Defendant's covenant not to sue shall not be deemed to bar the assertion of any defenses otherwise available to the Settling Defendant under Section 107 of CERCLA, or claims that may be asserted by the Settling Defendants against parties other than the United States under Section 113 of CERCLA, 42 U.S.C. 9613.

24. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

26. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be

construed to waive or nullify any rights that any person not a signatory to this Decree may have under applicable law. Except as provided in Sections IX (Covenant Not to Sue by Plaintiff) and XI (Covenant Not to Sue of Settling Defendant), the Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

27. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendant is entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are the United States' Response Costs and any response costs incurred or to be incurred by any other party in connection with the Sauget Area 1 Site. The "matters addressed" in this Consent Decree do not include response costs, response actions, or natural resource damages for which the United States has reserved its rights under this Consent Decree (except for claims for failure to comply with this Decree), in the event that the United States asserts rights against Settling Defendant coming within the scope of such reservations.

28. Settling Defendant agrees that, with respect to any suit or claim brought by it for matters related to this Consent Decree, it will notify EPA and DOJ in writing no later than 60 days prior to the initiation of such suit or claim. Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify EPA and DOJ in writing within 10 days of service of the complaint or claim upon it. In addition, Settling Defendant shall notify EPA and DOJ within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

29. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by Plaintiff set forth in Section IX.

XIII. NOTICES AND SUBMISSIONS

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al, Civ. No. 99-63-GPM

30. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, and Settling Defendant, respectively.

As to the United States:

Bruce Gelber
Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice (DJ # 90-11-3-07511)
P.O. Box 7611
Washington, D.C. 20044-7611

As to the United States Environmental Protection Agency:

Thomas Martin
Associate Regional Counsel
U.S. Environmental Protection Agency
WC 15-J
77 W. Jackson Blvd.
Chicago, IL 60604

As to Settling Defendant:

Paul Sauget
Sauget, Illinois

XIV. RETENTION OF JURISDICTION

31. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XV. INTEGRATION/APPENDICES

32. This Consent Decree and its appendices constitute the final, complete and exclusive

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al, Civ. No. 99-63-GPM

Consent Decree and understanding between the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. "Appendix A," a map of the Site, is attached to and incorporated into this Consent Decree.

XVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

33. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendant consents to the entry of this Consent Decree without further notice.

34. If for any reason this Court should decline to approve this Consent Decree in the form presented, this Consent Decree is voidable at the sole discretion of any party and the terms of the Consent Decree may not be used as evidence in any litigation between the Parties.

XVII. SIGNATORIES/SERVICE

35. Each undersigned representative of Settling Defendant to this Consent Decree and the Deputy Chief, Environmental Enforcement Section of the United States Department of Justice certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

36. Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendant in writing that it no longer supports entry of the Consent Decree.

37. Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Decree. Settling Defendant hereby agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons. The Parties agree that Settling Defendant need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XVIII. FINAL JUDGMENT

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al, Civ. No. 99-63-GPM

38. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between the United States and Settling Defendant. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

IT IS SO ORDERED:

04/19/04
Date

G. Patrick Murphy
HON. G. PATRICK MURPHY
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al, Civ. No. 99-63-GPM

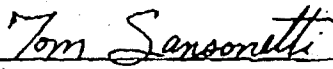
OU-12-2003 11:29

DOJ COPY CENTER


202 514 0097 P.02

THE UNDERSIGNED PARTY enters into this *Consent Decree* in the consolidated matter of *United States of America v. Pharmacia Corporation (f/k/a Monsanto) et al.*, and *Pharmacia Corporation (f/k/a Monsanto) and Solutia, Inc., v. United States of America*, Civil No. 99-63-GPM, (S.D. Illinois, Chief Judge Murphy) relating to the Sauget Area 1 Superfund Site.

FOR PLAINTIFF UNITED STATES OF AMERICA:


THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date: November 12, 2003


KAREN E. TORRENT
RENITA FORD
JEFF SPECTOR
JENNIFER LUKAS- JACKSON
Trial Attorneys
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-3581

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al, Civ. No. 99-63-GPM

11/11/2003 15:55 6183322115
11/11/2003 12:59 314-535-5700


PAGE 02/02
PAGE 19/19

THE UNDERSIGNED PARTY enters into this *Consent Decree* in the consolidated matter of *United States of America v. Pharmacia Corporation (f/k/a Monsanto) et al.*, and *Pharmacia Corporation (f/k/a Monsanto) and Solutia, Inc., v. United States of America*, Civil No. 99-63-GPM, (S.D. Illinois, Chief Judge Murphy) relating to the Sauget Area 1 Superfund Site.

~~THE~~ DEFENDANT PAUL SAUGET

Date: November 11, 2003

By:


~~Handwritten signature of Paul Sauget~~ Paul Sauget

CONSENT DECREE RESOLVING LIABILITY OF DEFENDANT PAUL SAUGET
UNDER SECTION 107 OF CERCLA AT SAUGET AREA 1 SUPERFUND SITE
United States v. Pharmacia, Corp., et al. Civ. No. 99-63-GPM